

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE M/V MSC FLAMINIA

**MASTER FILE:
12 Civ. 8892 (KBF)**

THIS DOCUMENT RELATES TO:
ALL ACTIONS

**AMENDED
JOINT PRE-TRIAL ORDER**

The parties having conferred among themselves and with the Court pursuant to Federal Rule of Civil Procedure 16, and in accordance with Section 3.B. of Your Honor's Individual Rules of Practice in Civil Cases, the following statements, directions and agreements are adopted as the Pretrial Order herein.

i. The full caption of the action:

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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12 Civ. 8892 (KBF)**

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ii. The names, addresses (including law firm names), and telephone and fax numbers of trial counsel:

1. *Attorneys for Plaintiffs Conti 11. Container Schiffahrts-GMBH & Co. KG MS "MSC FLAMINIA", as owner, and NSB Niederelbe Schiffahrtsgesellschaft MBH & CO. KG, as operator, of the vessel MSC FLAMINIA*

Eugene J. O'Connor, Esq.
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2. *Attorneys for Claimant and Defendant MSC Mediterranean Shipping Company, S.A.*

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3. *Attorneys for Claimants and Defendants Deltech Corporation and National Union Fire Insurance Company of Pittsburgh, PA.*

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Timothy J. McDonnell, Esq.
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Fax: (617) 433-5022

4. *Attorneys for Claimants Deltech Corporation and National Union Fire Insurance Company of Pittsburgh, PA, as their subrogated cargo insurer*

Charles E. Schmidt, Esq.
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Fax: (212) 430-0810

5. *Attorneys for Defendants Stolt Tank Containers BV and Stolt-Nielsen USA, Inc.*

John A. V. Nicoletti, Esq.
James F. Sweeney III, Esq.
Robert A. Novak, Esq.
David Wenger, Esq.
NICOLETTI HORNIG & SWEENEY
Wall Street Plaza
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6. *Attorneys for Plaintiffs and Claimants Stolt Nielsen USA, Inc., Stolt Tank Containers BV, Stolt Tank Containers Germany GMBH, Stolt Tank Containers France SAS, and National Union Fire Insurance Company of Pittsburgh, PA*

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New York, NY 10019
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7. *Attorneys for Claimants and Defendants Chemtura Corporation, Chemtura Europe GmbH, and Chemtura Italy S.R.L.*

Peter Runkel Knight, Esq.
Joseph L. Clasen, Esq.
Trevor L. Bradley, Esq.
ROBINSON & COLE LLP
666 Third Avenue, 20th Floor
New York, NY 10017
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Fax: (860) 275-8299

8. *Attorneys for BDP International, Inc. and BDP International N.V.*

James Johnson, Esq.
E. Michael Keating, III, Esq.
RICCI TYRRELL JOHNSON & GREY
1515 Market Street, Suite 700
Philadelphia, PA 19102
Tel: (215) 320-2082
Fax: (215) 320-3261

iii. The number of trial days requested:

12 days

iv. Any jointly agreed stipulations or statements of fact or law:

Exhibit A is reserved. No jointly agreed stipulations or statements of fact or law are being submitted at this time.

v. A statement by each party as to the actual witnesses whose testimony is expected to be offered in its case in chief, indicating whether such witnesses will testify in person or by deposition, and the true estimated length of the testimony. The opposing party shall state the estimated length of time for cross-examination of any witnesses who will testify live:

Live Witness	Party Calling	Length of Cross-Exam (hours)	Length of Re-Direct (hours)
Opening statements	All parties	2.20	0.00
Robert Elefante	Deltech	3.75	1.00
Tatonya Johnson	Deltech	2.00	1.00
Zachary Levine	Deltech	2.75	1.00
Tommy Sciortino*	Deltech	0.00	0.00
Janet Johnston*	Stolt	0.00	0.00
Aimee Morton	Stolt	2.50	1.00
Erin Bruening	Stolt	2.00	0.75
Albert N. Smith	Stolt	2.50	0.50
John Cario	Stolt	3.50	1.00
William Sikma	Stolt	3.00	1.00
Ernest Marcel	Chemtura	1.70	1.00
Claudio Bozzo	MSC	2.20	0.50
Michael Herrera II	MSC	2.20	0.50
Christopher B. Downey	MSC	2.70	0.50
James R. Parker	MSC	1.50	0.50
Dean W. Kutz	MSC	3.20	0.50
Henning Scharringhausen	Conti/NSB	1.00	0.50
Eckart Moeller	Conti/NSB	2.25	1.00
Janusz Tarnowski	Conti/NSB	1.50	0.50
Joerg Dehde	Conti/NSB	1.00	0.50
Frits Wybenga (expert)	Deltech	4.75	1.50
Sean P. Tortora (expert)	Stolt	2.50	1.50
W. Eugene Sanders (expert)	Chemtura	1.75	1.00
Robert F. Ahlborn (expert)	MSC	3.70	1.00
Michael Daum (expert)	MSC	2.00	1.00
Brian Hall (expert)	Conti/NSB	2.00	1.00
Subtotal time		60.15	20.25

Total trial time: 80.4 hours, subject to ongoing revisions by the parties.

Estimated trial days: 12.37 days, subject to ongoing revisions by the parties.
(at 6.5 hours per day)

Deposition Designation Witness	Party Designating
2E Pokusa	Conti / NSB and Stolt / Deltech
3E Krzysztof Golebiewski	Conti / NSB and Stolt / Deltech
2O Thiele	Conti / NSB and Stolt / Deltech
3O Remoroza	Conti / NSB and Stolt / Deltech
AB Casandra	Conti / NSB and Stolt / Deltech
AB Duterte	Conti / NSB and Stolt / Deltech
Capt. Langer	Conti / NSB and Stolt / Deltech
ELK Dalomias	Conti / NSB and Stolt / Deltech
FTR Sabandal	Conti / NSB and Stolt / Deltech
Ada Vincent	MSC and Stolt / Deltech
Andrew Cooper	Conti / NSB and MSC
Anthony Ortego	MSC and Stolt / Deltech
Cassandra Shore	Conti / NSB and MSC
Dirk Vande Velde	Conti / NSB, MSC, Stolt / Deltech, Chemtura, and BDP
Eckart Moeller (30b6)	MSC and Stolt / Deltech
Eugene Fluharty	Conti / NSB and MSC
Haresh Kotari	Conti / NSB and MSC
Jorge Erdtmann	Conti / NSB and Stolt / Deltech
Johannes Schwemmer	Conti / NSB and MSC
Henrik Meuller	Conti / NSB and Stolt / Deltech
Kristian Backhouse	MSC and Stolt / Deltech
Kristopher Calkins	Conti / NSB and Stolt / Deltech
Kelley Glover	MSC and Stolt / Deltech
Lars Paffenhof	Conti / NSB and Stolt / Deltech
Mario Gonzalez	MSC and Stolt / Deltech
Markus Thewes	Conti / NSB and Stolt / Deltech
Michael Deaton	MSC, Stolt / Deltech, BDP, and Chemtura
Michael Derbyshire	MSC and Stolt / Deltech
Robert Ortiz	Conti / NSB and BDP
Sam Watson	MSC and Stolt / Deltech
Thomas Le Blanc	Conti / NSB, BDP, and MSC
TyTrinia Breaux	MSC, Stolt / Deltech, and BDP
Uwe Kirstein	Conti / NSB and Stolt / Deltech

Deposition Designation Witness	Party Designating
Daniel Dellasala	Conti / NSB
John Cayias	Conti / NSB
John Gow	Conti / NSB
Jonas Lyborg	Conti / NSB
Todd Duke	Conti / NSB
Torge Schultz	Conti / NSB
Aimee Morton	MSC
Albert Smith	MSC
Erin Bruening	MSC
Greg Cooper	MSC
Greg Galloway	MSC
Hans Fauske	MSC
Ivan Vince	MSC
James Dolan	MSC
Janet Johnston	MSC
Jason Hyder	MSC
John Cario	MSC
Rob Van Uffelen	MSC
Robert Elefante	MSC
Robert Ortiz	MSC
Steven Hunt	MSC
Tatonya Haynes	MSC
Tom Starck	MSC and Stolt / Deltech
William Sikma (12-10-2105) and (12-11-2015)	MSC
William Sikma (2-11-2015)	MSC
Zachary Levine	MSC

Deposition Designation Witness	Party Designating
Capt. Hall	Stolt / Deltech
CE Tarnowski	Stolt / Deltech
Christopher Downey (fact)	Stolt / Deltech
Christopher Downey (30b6)	Stolt / Deltech
Christopher Parvin	Stolt / Deltech
Claudio Bozzo	Stolt / Deltech
David Kobe	Stolt / Deltech
David Spira	Stolt / Deltech
Dean Kutz 30(b)(6)	Stolt / Deltech
Dennis McCullough	Stolt / Deltech
Ernest Marcel	Stolt / Deltech
Elizabeth Thomasino	Stolt / Deltech
Eloy Ramos	Stolt / Deltech
Gianluigi De Maio	Stolt / Deltech
Giovanni DiBartolomeo	Stolt / Deltech
Joerge Dehde	Stolt / Deltech
James Parker	Stolt / Deltech
Jason Hyder	Stolt / Deltech
Michael Price	Stolt / Deltech
Raffele Porzio	Stolt / Deltech
Richard Schaeffer	Stolt / Deltech
Simon Farrier	Stolt / Deltech
Greg Galloway	BDP
Mario Gonzalez	BDP
Christopher Parvin	Chemtura
Dennis McCullough	Chemtura

Notes:

* = Will not testify live, since there will be no cross-examination or redirect by agreement of the parties.

vi. **A spreadsheet (preferably in Excel format) setting forth any/all designations of deposition testimony to be offered in each party's case in chief. The chart shall include four columns: (1) the offering party's designations of testimony; (2) any cross-designations or objections to the designations, including the basis and legal support for any objections; (3) the offering party's responses to any objections; and (4) an empty column for the Court's rulings. Any explanation should be concise, but sufficient to enable the Court to fully understand the basis for the objection/response and to rule on the objection:**

Deltech's and Stolt's deposition designations are attached hereto as Exhibit B.

BDP's deposition designations are attached hereto as Exhibit C.

Chemtura's deposition designations are attached hereto as Exhibit D.

MSC's deposition designations are attached hereto as Exhibit E.

Conti/NSB's deposition designations are attached hereto as Exhibit F.

vii. **A spreadsheet (preferably in Excel format) containing a list by each party of exhibits to be offered in its case in chief. The chart shall include four columns: (1) the exhibit number (PX1, PX2, DX1, DX2, etc.); (2) a brief description of the exhibit (e.g., "X-Ray image of plaintiff's fibula***"), marked with one star indicating where no party objects on grounds of authenticity and with two stars where no party objects on any ground; (3) the basis and any legal support for any objection to the exhibit; and (4) the offering party's responses to any objections. Any explanation should be concise, but sufficient to enable the Court to fully understand the basis for the objection/response and to rule on the objection:**

Deltech's and Stolt's trial exhibit list is attached hereto as Exhibit G.

BDP's trial exhibit list is attached hereto as Exhibit H.

Chemtura's trial exhibit list is attached hereto as Exhibit I.

MSC's trial exhibit list is attached hereto as Exhibit J.

Conti/NSB's trial exhibit list is attached hereto as Exhibit K.

viii. Proposed findings of fact and conclusions of law. Proposed findings of fact must have specific citations to the record, or expected testimony (or direct testimony submitted by affidavit), for each factual proposition (or that finding of fact shall be disregarded):

Deltech's and Stolt's proposed findings of fact and conclusions of law were attached as Exhibit L to the JPTO (Docket #1539-1).

BDP's amended proposed findings of fact and conclusions of law are attached hereto as Exhibit M.

Chemtura's proposed findings of fact and conclusions of law were attached as Exhibit N to the JPTO (Docket #1539-3).

MSC's proposed findings of fact and conclusions of law were attached as Exhibit O to the JPTO (Docket #1539-4).

Conti/NSB's proposed findings of fact and conclusions of law were attached as Exhibit P to the JPTO (Docket #1539-5).

Affidavits/declarations constituting the entirety of the direct testimony of each trial witness, except for testimony of an adverse party, a person whose attendance must be compelled by subpoena, or a person for whom a party has requested and the Court has agreed to hear direct testimony during the trial. Trial affidavits/declarations shall be the only direct testimony received and thus must, for example and *inter alia*, establish a foundation for each exhibit intended to be introduced:

Deltech's declarations of direct testimony:

Tatonya Johnson (ECF No. 1485)
Zachary Levine (ECF No. 1491)
Robert Elefante (ECF No. 1483)
Tommy Sciortino (ECF No. 1487)
Frits Wybenga (ECF No. 1493)

Stolt's declarations of direct testimony:

Janet Johnston (ECF No. 1475)
Erin Bruening (ECF No. 1477)
Aimee Morton (ECF No. 1482)
Albert N. Smith (ECF No. 1486)
John Cario (ECF No. 1488)
William Sikma (ECF No. 1490)
Sean P. Tortora (ECF No. 1492)

Chemtura's declarations of direct testimony:

Ernest Marcel (ECF No. 1473)
W. Eugene Sanders (ECF No. 1474)

MSC's declarations of direct testimony:

Claudio Bozzo (ECF No. 1478)
Michael Herrera II (ECF No. 1479)
Christopher B. Downey (ECF No. 1481)
James R. Parker (ECF No. 1476)
Dean W. Kutz (ECF No. 1480)
Michael Daum (ECF No. 1484)
Robert F. Ahlborn (ECF No. 1489)

Conti/NSB's declarations of direct testimony:

Henning Scharringhausen (ECF No. 1472)
Eckart Moeller (ECF No. 1471)
Janusz Tarnowski (ECF No. 1469)
Joerg Dehde (ECF No. 1470)
Brian Hall (ECF No. 1468)

SO ORDERED.

U.S.D.J.

Dated: August ___, 2018
New York, New York